

SUMMARY ANALYSIS OF AMENDED BILL

Author: Eng Analyst: Angela Raygoza Bill Number: AB 484
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: April 2, 2009
 Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

SUBJECT: Failure To Resolve Outstanding Liabilities As Grounds For Revoking A Professional Or Occupational License

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED

X February 24, 2009, STILL APPLIES.

X OTHER – See comments below.

SUMMARY

This bill would suspend occupational and professional licenses as a matter of law because of an unpaid income tax liability and require Franchise Tax Board (FTB) to notify the applicable licensing agency of the suspension.

SUMMARY OF AMENDMENTS

The April 2, 2009, amendments would do the following:

- Require license suspension 30 days after a licensee defaults on an installment payment arrangement,
- Suspend a license when the licensee's financial hardship is no longer operative,
- Exempt license suspension from administrative adjudication procedures of the Administrative Procedure Act, and
- Allow licensing boards to levy an administrative fee on suspended licenses.

Board Position:

_____ S _____ NA _____ NP
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 _____ N _____ OUA X PENDING

Legislative Director

Date

Brian Putler

4/14/09

As a result of the April 2, 2009, amendments, the "This Bill" discussion as provided in the department's analysis of the bill as introduced February 24, 2009, has been revised. The remainder of that analysis still applies. The revenue analysis has been included below for convenience.

ANALYSIS

THIS BILL

This bill would suspend an occupational or professional license by operation of law because of an unpaid income tax liability. The suspension would occur only after the following have been provided by FTB to the debtor:

- Notice of State Income Tax Due,
- Final Notice Before Levy,
- Order To Withhold is issued (if debtor's bank information is available to FTB),
- Notice of State Tax Lien (issued when a state tax lien is recorded),
- Sixty day preliminary suspension notice.

This bill would allow FTB to disclose to the licensing boards the fact of the suspension--unpaid taxes.

This bill would require that the licensee pay the total unpaid tax liability or enter into an installment arrangement to cancel a suspension. This bill would specify that a licensee that enters into an installment payment agreement would have their license suspended if he or she fails to comply with the terms of the agreement. The license would be suspended 30 days after the date the agreement has been terminated and a notice of suspension would be provided to the licensing entity and mailed to the licensee.

This bill would allow a financial hardship hearing. The FTB staff would provide a hearing, upon request of a debtor, for a license holder who believes he or she would experience a financial hardship as a result of the suspension. "Financial hardship" would be defined by reference to Revenue and Taxation Code (R&TC) section 19008, as determined by FTB, where suspension of a license would result in the licensee being financially unable to pay his or her taxes including penalties, interest, and applicable fees and is unable to qualify for an installment payment arrangement pursuant to R&TC section 19008. In order to establish that a financial hardship exists, the licensee shall submit any information, including information related to reasonable business and personal expenses, requested by FTB for making the determination. FTB would conduct the hearing within 30 days of receipt of the request, unless FTB postpones the hearing upon a showing of good cause. Suspension would be deferred until the hardship hearing was completed. If a debtor substantiates financial hardship, FTB would defer or cancel the suspension.

The bill specifies that the administrative adjudication provisions of the Administrative Procedures Act¹ would not apply to the suspension of a license as result of delinquent tax liabilities.

In addition, this bill would require a license to be suspended if the deferral of a license suspension is a result of a financial hardship is no longer operative. The license would be required to be suspended 30 days after the date the deferral is no longer operative. This bill would require FTB to provide a notice of suspension to the licensing entity and mail a notice of suspension to the licensee.

This bill would allow a licensing entity to impose a fee on licensees who have had their license suspended as a result of a delinquent tax liability. The fee would be limited to the actual costs of suspension.

This bill would define the following:

- “Financial hardship” means financial hardship, as determined by FTB, where the taxpayer is financially unable to pay any part of their taxes including penalties, interest, and applicable fees and is unable to qualify for an installment payment arrangement pursuant to Section 19008 of the Revenue and Taxation Code.
- “License” includes certificate, registration, or any other authorization to engage in a business or profession issued by a state governmental licensing entity.
- “Licensee” means any entity authorized by a license, certificate registration, or other authorization to engage in a business or profession issued by a state governmental licensing entity.
- “State governmental licensing entity” means any entity included in Sections 101, 1000, or 19420 of the Business and Professions Code (approximately 41 licensing entities), the Office of Attorney General, the Department of Insurance, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing a person to engage in a business or profession. “State governmental licensing entity” excludes the Department of Motor Vehicles. Please see the Appendix for a list of licenses that would be affected by this provision.

This bill would allow the Contractors State License Board to continue to have authority to suspend a contractor’s license for unpaid tax liabilities.

This bill requires licensing boards to provide FTB information at a time requested by FTB.

The bill specifies that implementation of these provisions would be contingent upon funding approval.

¹ Administrative Procedures Act Government Code 11500 provides procedures for administrative hearings to be conducted by the licensing boards to determine whether a right, authority, license or privilege should be revoked or suspended.

TECHNICAL CONSIDERATION

Amendment 1 has been provided to correct a technical error.

ECONOMIC IMPACT

Revenue Estimate

The revenue gain from this bill would be as follows:

| Estimated Revenue Impact of AB 484 Effective On or After January 1, 2010 Enactment Assumed After June 30, 2009 (\$ in Millions) | | | |
|--|---------|---------|---------|
| Occupational | 2009-10 | 2010-11 | 2011-12 |
| License | \$14 | \$25 | \$13 |

Estimates reflect the following assumptions: 1) funding becomes available after June 30, 2010; and 2) collection begins after January 1, 2011. This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact for this bill would be determined by the number of delinquent taxpayers who are required to possess an occupational or professional license, and who pay their tax liabilities under threat of, or an actual suspension of, their occupational license.

This estimate was calculated using the account balances of the department's accounts receivables for the affected taxpayers, excluding accounts in bankruptcy and installment agreements. Taxpayers subject to the bill are those with an outstanding liability of \$1,000 or more and who have owed a tax debt for a minimum of one year.

There is currently an inventory of approximately 25,000 delinquent taxpayers with occupational and professional licenses that are in the collection process. It is estimated that nearly 9,500 taxpayers would comply upon notice from FTB in taxable year 2011. The average payment amount for these cases would be \$2,000 resulting in additional collections of approximately \$19 million (9,500 taxpayers x \$2,000 average tax payment). It is assumed that 75 percent or approximately \$14 million (\$19 million collections x 75% assumed to be collected) would be collected in 2010-11.

In addition, it is estimated that each year 17,200 taxpayers with occupational and professional licenses will enter the collection process. Of the 17,200 taxpayers, it is estimated 38 percent, or approximately 6,600 (17,200 taxpayers with licensees x 38% assumed to pay) are expected to pay their delinquents debts upon notice from FTB, resulting in additional annual collections of approximately \$13 million (6,600 taxpayers x \$2,000 average tax payment).

In 2011-12, the other 25 percent of \$19 million, or approximately \$4.7 million (\$19 million collections x 25% assumption to be collections) would be collected. In addition, one-half of the \$13 million that is collected annually or approximately \$6.6 million (\$13 million collected annually x 50% assumed to pay) would be added to the full \$13 million, totaling approximately \$25 million (\$4.7 million + \$6.6 million + \$13 million) that would be collected in 2011-2012.

Thereafter, the bill would result in annual collections of approximately \$13 million. Since these cash flows all relate to tax liabilities from prior years, they are accrued back one year. Therefore, the \$14 million estimated fiscal year cash flow increase for 2010-11 would actually be a \$14 million revenue increase for fiscal year 2009-10.

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APPENDIX
Governmental Licensing Entities
(Licensing Boards that are affected by this bill)

1. Section 101 of the Business and Professions Code

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| The Dental Board of California |
| The Medical Board of California |
| The State Board of Optometry |
| The California State Board of Pharmacy |
| The Veterinary Medical Board |
| The California Board of Accountancy |
| The California Architects Board |
| The Bureau of Barbering and Cosmetology |
| The Board of Professional Engineers and Land Surveyors |
| The Contractors' State License Board |
| The Bureau for Private Postsecondary and Vocational Education |
| The Structural Pest Control Board |
| The Bureau of Home Furnishings and Thermal Insulation |
| The Board of Registered Nursing |
| The Board of Behavioral Sciences |
| The State Athletic Commission |
| The Cemetery and Funeral Bureau |
| The State Board of Guide Dogs for the Blind |
| The Bureau of Security and Investigative Services |
| The Court Reporters Board of California |
| The Board of Vocational Nursing and Psychiatric Technicians |
| The Landscape Architects Technical Committee |
| The Bureau of Electronic and Appliance Repair |
| The Division of Investigation |
| The Bureau of Automotive Repair |
| The State Board of Registration for Geologists and Geophysicists |
| The Respiratory Care Board of California |
| The Acupuncture Board |
| The Board of Psychology |
| The California Board of Podiatric Medicine |
| The Physical Therapy Board of California |
| The Arbitration Review Program |
| The Committee on Dental Auxiliaries |
| The Hearing Aid Dispensers Bureau |
| The Physician Assistant Committee |
| The Speech-Language Pathology and Audiology Board |
| The California Board of Occupational Therapy |
| The Osteopathic Medical Board of California |
| The Bureau of Naturopathic Medicine |

2. Section 1000 of the Business and Professions Code

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| State Board of Chiropractic Examiners |
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3. Section 19420 of the Business and Professions Code

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| California Horse Racing Board |
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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 484
AS Amended April 2, 2009

AMENDMENT 1

On page 7, line 25, before "license" insert:

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